

NOT FOR PUBLICATION

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

SYDNEY C. STERN)	
Plaintiff,)	
)	Civ. No. 2002-134
v.)	
)	
)	
EDWARD A. SEYKOTA)	
Defendant.)	
_____)	

ATTORNEYS:

Karin A. Bentz, Esq.
For the plaintiff,

Boyd Sprehn, Esq.
For the defendant.

MEMORANDUM

Moore, J.

Plaintiff Sydney C. Stern moves the Court to remand this action to Territorial Court and also asks the Court to compel defendant Edward A. Seykota's responses to certain of Stern's interrogatories and the production of Stern's profile from an online dating service.¹ For the reasons stated herein, I will deny the motion to remand and grant the motion to compel in part.

¹ Plaintiff actually filed two separate motions to compel, one to require more complete answers to interrogatories and one to produce the plaintiff's internet profile. As both motions are motions to compel, they are referred to for purposes of this memorandum in the singular.

I. FACTS AND PROCEDURAL BACKGROUND

This case emerges from a business and personal relationship between Stern and Seykota. Stern alleges that Seykota promised her the ownership of a condominium at Secret Harbor the two had lived in together with Seykota's children. The parameters of the relationship are disputed. Both parties agree that they lived together and that Stern was responsible for much of the household management and care of Seykota's children. Stern also received money from Seykota, although the amount has not been established and the parties disagree about whether she was technically in his employ, as either a household manager or a business manager, or as both. Stern contends and Seykota disputes that their relationship had a romantic component throughout its five-year course.

Stern alleges that as a result of their relationship (1) Seykota promised her ownership of the condominium at Secret Harbor and has reneged on that promise, (2) Seykota was unjustly enriched by the monies she invested to decorate and otherwise improve the condo, and (3) Seykota misrepresented his intent to give her the condo. Plaintiff also asserts that Seykota has attempted to oust her from the property she continued to live in after he moved with his children back to Nevada by, among other things, threatening to have the electricity cut off,

constituting` negligent infliction of emotional distress.

II. MOTION TO REMAND

Stern filed her complaint on July 5, 2002. Defendant timely removed the matter to District Court on July 19, 2002, based on diversity of citizenship. Stern moved to remand on November 5, 2002. Seykota's first opposition argument is that the motion to remand was filed out of time. He bases this assertion on the requirement that motions to remand based on any defect other than lack of subject matter jurisdiction must be made within thirty days of the filing of notice of removal. See 28 U.S.C. § 1447c. This argument fails, as Stern bases her motion to remand on a jurisdictional argument, so the thirty-day limit does not apply.

Stern contends first that the case is more properly heard in Territorial Court because it involves only questions of local law. She argues secondly that an amount in controversy sufficient for jurisdiction has not been shown by defendant.

Stern offers little support for her argument that remand is justified simply because all the counts alleged involve local law, except to say that this Court's jurisdiction is not exclusive, but is shared with the Territorial Court and the Territorial Court is the preferred forum because the case

involves only local law. I can see no merit to this argument, and Stern provides no case law to bolster it.

In diversity cases, a federal district court has original jurisdiction over all civil actions where the matter in controversy exceeds the sum or value of \$75,000. 28 U.S.C. § 1332. Stern's second argument also fails. As Stern alleges in her complaint that she is entitled to the condo, and herself states that its value is \$200,000, she cannot now be heard to deny that the amount in controversy does not exceed \$75,000. The jurisdictional amount is satisfied even without adding in her allegation that she invested \$52,000 of her own money to refurbish the condo or her claim that she is entitled to damages for emotional distress. The value of the condo alone exceeds the jurisdictional threshold for amount in controversy. For these reasons I will deny the plaintiff's motion to remand.

III. MOTIONS TO COMPEL

A. Standard for Motion to Compel

Federal Rule of Civil Procedure 26(b)(1) allows parties to a suit to discover information pertaining to any matter that is not privileged and that is also relevant to the claim or the defense of any party. FED. R. CIV. P. 26(b)(1). The information sought need not be admissible at trial if it is reasonably calculated to

lead to the discovery of admissible evidence. *Id.* Answers to interrogatories must include all information within the party's control or known by its agents, and the answering party cannot ignore information readily available to it. *See Cage v. N.Y. Cent. R. Co.*, 276 F. Supp. 778, 786-87 (W.D. Pa. 1967) *aff'd* 386 F.2d 998 (3d Cir. 1967). Documents or things which are responsive to a request for production must be provided if they are in the party's possession, custody or control. *Kissinger v. Reporters Comm. for Freedom of Press*, 445 U.S. 136 (1980).

Relevancy should be construed liberally. *See Nobles v. Jacobs*, 2003 WL 23198817 at 1 (D.V.I. July 7, 2003). A liberal construction, however, should not allow a party to cast its net of inquiry too broadly. *See Bhagwandass v. Hovensa*, 2002 WL 32349814 at 2 (D.V.I. Oct. 29, 2002) (holding that relevancy had not been established in request for employment records before date of alleged discrimination).

B. Plaintiff's Motion

Stern seeks to compel responses to six interrogatories originally propounded on Seykota on March 3, 2003. Seykota responded to the interrogatories but Stern contends the answers are insufficient. In addition, Stern asks that Seykota be compelled to provide the "internet profile" of Stern as part of her request for documents. Seykota did not formally oppose the

motion.

In her motion to compel, Stern asserts that Seykota's responses to interrogatories 29, 30, 32, 34, 36 and 39 were inadequate.

Interrogatory No. 29 said: "State how much Stern was paid for her services to Seykota." Seykota replied that No. 29 had been answered in the response to interrogatory No. 2. The response to interrogatory No. 2 is lengthy, and addressed the financial arrangements between the parties, if obliquely. Seykota does not state a specific amount Stern was paid, but does indicate that she was either directly paid for, or reimbursed for a variety of activities, such as taking care of the children, maintaining the household and supervising renovations to the condominium at Secret Harbor. The response also indicated that she was to receive additional payments and a car for closing up the residence and shipping household goods to Nevada when the family moved back there.

Interrogatory No. 30 asked Seykota to state whether Stern had an employment contract with him and if so, what it's terms were. Seykota again referred to his response to question No. 2. In that response, Seykota stated directly that Stern worked for Galt Capital, but did not otherwise address an employment contract between the two of them, except to say that the two

agreed to refer to Stern's position in the household as "honored guest" in any documents memorializing the relationship.

Interrogatory No. 32 asked Seykota to state whether Stern earned a salary or in any other way profited financially from her involvement in the investment business between December 1997 and January 21, 2001. Seykota again referred to his response to question 2, in which he said he taught her "trading" and eventually referred her to consulting clients that he did not want to assist personally, a practice that continued until Stern went to work for Galt Capital.

Interrogatory No. 34 requested Seykota to state whether plaintiff performed any of a list of tasks or held any of several positions, including: a) being business manager for Seykota, b) handling customer relations, c) obtaining new business, d) managing day to day operations of the business, e) doing strategic planning, f) planning product development, g) coordinating with fund administrators, h) handling human resources management and I) performing various types of financial research. Seykota responded: "Plaintiff's role was to be a Nanny to the children, light housekeeping, some administrative work and Plaintiff did some consulting on her own."

Interrogatory No. 36 asked Seykota to state whether Stern ever received payment for her services maintaining the family

home or caring for the children, and how much any such payments were and in what form given. Seykota referenced the answer to question No. 2 in response.

In Interrogatory No. 39, Stern requested Seykota provide the names and addresses for every person he had an intimate or sexual relationship with from 1997 to 2002. Seykota objected to the question in his responses, stating that it was irrelevant and could not reasonably lead to admissible evidence. Stern contends it is relevant for the following reasons: (1) promises were made to her in the context of an intimate relationship, (2) she relied on those promises to her detriment, (3) similar promises (such as "I will give you a condo") were made to other women who also detrimentally relied on them, (4) Seykota states under oath that both he and Stern had relationships with other persons and Stern is entitled to rebut this claim, and (5) Seykota denies under oath that he had a serious relationship with Stern and Stern is entitled to rebut that claim.

Interrogatories 29, 30, 32, 34 and 36, under the liberal construction standard, make legitimate inquiries into the scope of the relationship between Stern and Seykota. Seykota's response to Interrogatory No. 2, while comprehensive enough for that question, is insufficient to serve as a response for these five interrogatories. There is no reason Seykota cannot provide some

concrete numbers with respect to how much money, if any, was given to Stern, either in general (Interrogatory No. 29), with respect to Stern's salary if in fact she drew one (Interrogatory No. 32) or for her duties as a nanny (Interrogatory No. 36). I will therefore compel Seykota to provide more comprehensive answers to Interrogatories Nos. 32 and 36, as they are more specific than the broad question in Interrogatory No. 29. In addition, Seykota can state whether Stern had an employment contract of any kind with him in response to Interrogatory No. 30. Interrogatory No. 34 has essentially been answered, and Seykota does not need to supplement the answer. The motion to compel further answers to interrogatories is thus granted with regard to numbers 30, 32 and 36, and the motion will be denied with respect to numbers 29 and 34.

Interrogatory 39 is irrelevant and Seykota does not have to answer it. Stern contends she needs the information to defend against Seykota's sworn testimony that they did not have a serious or exclusive relationship. It is unclear how a list of his sexual partners would prove the claims she is trying to establish, namely, that they had a serious, intimate relationship. Equally mystifying is the relevance of a list of other sexual partners, to whom she agrees he made similar promises, to her contention that he promised to give her the

condo due to their intimate relationship.

In her second motion to compel, Stern requests production of her internet profile from the internet dating service through which she and Seykota originally met, although she made no specific request for the internet profile in the original interrogatories. Stern's counsel claims she became aware of the profile during the deposition of Seykota. Stern then requested a copy of the internet profile, which she maintains she created, provided to the Internet dating service, and Seykota then selected and downloaded. She claims that the profile was the basis for their initial meeting.

In a letter to Stern's counsel, Seykota responded that the internet profile did not fit within the parameters of any of Stern's requests for production of documents. Stern's Demand No. 24 asks Seykota to produce "all emails between Defendant and Plaintiff from 1997 through 2002." Demand No. 25 requested "all correspondence between Defendant and Plaintiff from 1997 through 2002." Demand No. 9 sought any statements in writing by any person having any knowledge of or having had any conversation with Stern regarding a relationship between Stern and Seykota.

The record reveals very little about what the internet profile consists of. To the extent it is described, I agree with defendant that the profile constitutes neither an email between

the parties nor correspondence between them. I will therefore deny the motion to compel with respect to the internet profile. An appropriate order follows.

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ATTORNEYS:

Karin A. Bentz, Esq.
St. Thomas, U.S.V.I.
For the plaintiff,

Boyd Sprehn, Esq..
St. Thomas, U.S.V.I.
For the defendant,

ORDER

For the reasons stated in the attached memorandum of even date, it is hereby **ORDERED** that the plaintiff's motion to remand is **DENIED** and plaintiff's motion to compel is **GRANTED** with respect to Interrogatories 30, 32, and 36, and **DENIED** with respect to Interrogatories 29, 34, 39 and the request for plaintiff's internet profile.

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ENTERED this 22nd day of December, 2004.

FOR THE COURT:

_____/s/_____
Thomas K. Moore
District Judge

ATTEST:
WILFREDO F. MORALES
Clerk of the Court

By:_____/s/_____
Deputy Clerk

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